

Granted.

10:10 AM, Mar 23, 2022



UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

AUSTIN KLEINHANS, *et al.*, on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

GREATER CINCINNATI BEHAVIORAL HEALTH SERVICES,

Defendant.

) Case No. 1:21-cv-000070

) Judge Michael R. Barrett

) Magistrate Judge Karen L. Litkovitz

)

) **PLAINTIFFS' UNOPPOSED MOTION FOR APPROVAL OF AMENDED PROPOSED NOTICE TO POTENTIAL CLASS MEMBERS**

)

Plaintiffs, Austin Kleinhans and Tessa Bradley, by and through counsel, hereby submit their Unopposed Motion for Approval of the proposed Notice to Potential Class Members attached hereto as Exhibit 1. Pursuant to the Court's March 8, 2022 Order, Plaintiffs added the following language to Section 6 of the proposed Notice: "While the suit is proceeding, you may be required to provide information, sit for a deposition, and testify in court."

Plaintiffs' counsel has conferred with Defendant's counsel regarding the amended Proposed Notice attached hereto, and Defendant's counsel has confirmed that, based on the Court's March 8, 2022 Order, Defendant does not oppose the forgoing Motion.

WHEREFORE, Plaintiffs' respectfully request that the Court approve the amended proposed Notice to Potential Class Members attached hereto as Exhibit 1.

Respectfully submitted,

/s/ Matthew S. Grimsley

Matthew S. Grimsley (0092942)

Anthony J. Lazzaro (0077962)

Lori M. Griffin (0085241)

Alanna Klein Fischer (0090986)

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and

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*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on March 22, 2022, the foregoing *Plaintiffs' Unopposed Motion for Approval of Amended Proposed Notice to Potential Class Members* was filed electronically and served upon all parties via the Court's CM/ECF electronic filing system. Parties may access the filing through the Court's system.

/s/ Matthew S. Grimsley  
Matthew S. Grimsley (Ohio 0092942)

*Attorney for Plaintiffs*

# Exhibit 1

\_\_\_\_\_, 2022

## **IMPORTANT NOTICE TO POTENTIAL CLASS MEMBERS**

AUTHORIZED BY JUDGE MICHAEL R. BARRETT OF THE U.S. DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO WESTERN DIVISION

TO: All current and former individuals in positions, job titles, job codes, job classifications, or job descriptions of “Case Manager” and all other similar nomenclature performing substantially identical functions employed by Greater Cincinnati Behavioral Health Services between March 8, 2019 and the present.

RE: Your right to join a collective action seeking to recover unpaid overtime compensation.

### **1. PURPOSE OF THIS NOTICE**

This Notice informs you of a collective action that has been filed under the Fair Labor Standards Act (“FLSA”), advises you of your rights as a class member, and tells you how you can be included in the action. If you wish to be included in this collective action, you must sign and return the enclosed Consent Form as explained below.

### **2. DESCRIPTION OF THE ACTION**

On January 31, 2021, this collective action was filed against Defendant Greater Cincinnati Behavioral Health Services (“GCBHS”) in the U.S. District Court for the Southern District of Ohio Western Division, Case No. 1:21-cv-000070. The action was filed on behalf of named Plaintiffs Austin Kleinhans and Tessa Bradley and all other similarly-situated individuals.

Plaintiffs were employed by GCBHS as case workers and were paid a salary. Plaintiffs allege that GCBHS violated the FLSA by misclassifying them and other similarly situated employees as “exempt” and failing to pay them for all hours worked, including overtime compensation at the rate of one and one-half times their regular rates of pay for the hours they worked over 40 each workweek.

Plaintiffs allege that they and all other similarly-situated individuals are entitled to recover from GCBHS: (a) unpaid overtime compensation; (b) liquidated damages; (c) attorneys’ fees; and (d) costs under the FLSA. GCBHS has denied these claims and believes it has properly paid employees.

The Court has not yet decided whether Plaintiffs or GCBHS is correct. The right to recover these wages for any Plaintiff has not been established and is not guaranteed or certain.

### **3. YOUR RIGHT TO PARTICIPATE IN THIS ACTION**

Plaintiffs seek to sue not only for themselves, but also for other persons with whom they are similarly situated. Plaintiffs allege that those individuals are current and former individuals in positions, job titles, job codes, job classifications, or job descriptions of “Case Manager” and all other similar nomenclature performing substantially identical functions employed by Greater Cincinnati Behavioral Health Services between [insert date from 3 years] and the present. If you fit this definition, you may have the right to participate in this action.

### **4. HOW TO PARTICIPATE IN THIS ACTION**

To join this collective action, you must sign and return the enclosed “Consent Form.” You can return the Consent Form by: (a) signing it electronically (eSigning) via PDF; (b) mailing it to Plaintiff’s counsel in the self-addressed and postage-prepaid envelope included with this Notice; (c) faxing the form to Plaintiff’s counsel at 216-696-7005; (d) scanning the form and emailing it to Plaintiffs’ counsel at [consent@lazzarolawfirm.com](mailto:consent@lazzarolawfirm.com).

**The signed Consent Form must be eSigned, postmarked, faxed, or emailed by [45 days from mailing], 2022.** It is important that you return the Consent Form as soon as possible because the time period for which you can seek payment for your unpaid wages will depend on when this form is filed with the Court. If you lose or misplace the enclosed Consent Form, or if you have any questions about filling out or returning the Consent Form, you may contact Plaintiff’s counsel listed in paragraph 8 of this Notice.

### **5. NO RETALIATION PERMITTED**

The law prohibits GCBHS or any of its agents or employees from discharging you, or in any manner harassing, discriminating or retaliating against you for taking part in this collective action.

## **6. EFFECT OF JOINING THIS ACTION**

If you join this collective action, you will be bound by any judgment that is rendered, whether favorable or unfavorable, and share in any recovery. You will also be bound by, and share in, any settlement that may be reached on behalf of the class. While the suit is proceeding, you may be required to provide information, sit for a deposition, and testify in court.

By joining this action, you designate the named Representative Plaintiffs as your agents to make decisions on your behalf concerning the litigation, the method and manner of conducting this litigation, the entering of an agreement with Plaintiffs' counsel concerning fees and costs, the entering into a settlement agreement with GCBHS and all other matters pertaining to this action.

**The named Plaintiffs in this matter have entered into a contingency fee agreement with Plaintiffs' counsel, which means that if there is no recovery, there will be no attorneys' fees or costs chargeable to you.** If there is a recovery of wages, liquidated damages, and/or attorneys' fees and costs, Plaintiffs' counsel will be paid whatever attorneys' fees and costs the Court orders or approves as fair and reasonable. The fees and costs will either be subtracted from the total recovery obtained from GCBHS in the amount of thirty-three and one-third percent (33-1/3%) of your total recovery, plus costs expended by Plaintiffs' counsel on your behalf, or they may be paid separately by GCBHS. If there is no recovery, Plaintiffs' counsel will not be paid for their work on this case.

## **7. NO LEGAL EFFECT OF NOT JOINING THIS ACTION**

If you choose not to join this action, you will not be bound by any judgment or settlement, whether favorable or unfavorable, and you will not share in any recovery. You will be free to file your own lawsuit; however, the pendency of this action will not stop the running of the statute of limitations as to any claims you may have until you file your own lawsuit.

## **8. YOUR LEGAL REPRESENTATION IF YOU JOIN**

Anthony J. Lazzaro	Michael L. Fradin
Matthew S. Grimsley	8401 Crawford Avenue, Suite 104
Lori M. Griffin	Skokie, Illinois 60076
Alanna Klein Fischer	Phone: 847-986-5889
The Lazzaro Law Firm, LLC	Facsimile: 847-673-1228
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Moreland Hills, Ohio 44022	
Phone: 216-696-5000	
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anthony@lazzarolawfirm.com	
matthew@lazzarolawfirm.com	
lori@lazzarolawfirm.com	
alanna@lazzarolawfirm.com	

## **9. GCBHS IS REPRESENTED BY**

Ryan M. Martin  
Jeremy D. Smith  
Jackson Lewis P.C.  
201 E. Fifth Street, 26<sup>th</sup> Floor  
Cincinnati, Ohio 45202  
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Fax: 513-898-0051  
ryan.martin@jacksonlewis.com  
jeremy.smith@jacksonlewis.com

## **10. FURTHER INFORMATION**

Further information about this Notice or the action may be obtained from Plaintiffs' counsel at 847-986-5889 or 216-696-5000. The call is free and confidential.

**PLEASE DO NOT CONTACT THE COURT REGARDING THIS NOTICE. THE COURT HAS TAKEN NO POSITION IN THIS CASE REGARDING THE MERITS OF PLAINTIFFS' CLAIMS OR OF GCBHS'S DEFENSES.**

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

AUSTIN KLEINHANS, *et al.*, on behalf of ) CASE NO. 1:21-cv-000070  
themselves and all others similarly situated, )  
) JUDGE MICHAEL R. BARRETT  
Plaintiff, )  
)  
vs. )  
)  
GREATER CINCINNATTI BEHAVIORAL )  
HEALTH SERVICES, )  
)  
Defendant. )  
)  
)

**CONSENT FORM**

I hereby consent, agree, and opt-in to be a party Plaintiff in the above-captioned collective action. I agree to be represented by The Lazzaro Law Firm, LLC and The Law Offices of Michael L. Fradin. I understand that by filing this consent, I will be bound by the judgment of the Court on all issues in this case.

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Print Name: \_\_\_\_\_ Phone: \_\_\_\_\_

Street Address: \_\_\_\_\_ Email: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

**eSign via PDF or return to:**

The Lazzaro Law Firm, LLC / The Heritage Building, Suite 250 / 34555 Chagrin Blvd. / Moreland Hills, Ohio 44022  
Fax: 216-696-7005

Email: [consent@lazzarolawfirm.com](mailto:consent@lazzarolawfirm.com)

**Must be eSigned, postmarked, faxed, or emailed by [45 days from date of mailing], 2022**